IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 21.03.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Writ Appeal No.289 of 2006

The Tamil Nadu State Transport
Corporation(Coimbatore) Limited,
rep. by its Managing Director,
(Formerly known as Jeeva Transport
Corporation Limited), Chennimalai Road,
Erode.
(Cause title accepted vide order of
the Court dt.6.4.2005 made in
WAMP No.1276/2005) ... Appellant/2nd respondent

Vs.

1.S.Subramaniyan

2.The presiding Officer,
Labour Court, Salem ... Respondent/Petitioner

Writ appeal filed under Clause 15 of the Letters patent against the order dated 30.03.2004 made in W.P.No.13535 of 1997 filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent herein in I.D.No.452/92 dated 21.12.94 and to quash the same and direct the second respondent herein to reinstate the petitioner herein with continuity of service backwages and all other consequential benefits thereon award costs.

For Appellant : Mr.L.R.Sahadevan

WEB COPY

JUDGMENT

(Order of the Court was made by P.SATHASIVAM, J.)

The above writ appeal is directed against the order of the learned single Judge dated 30.3.2004 made in W.P.No.13535 of 1997, in and by which the learned single Judge, after finding that the workman concerned has to be reinstated, allowed the writ petition.

https://hcservices.ecourts.gov.in/hcservices/

` 2. The first respondent herein is the petitioner in W.P.No.13535 of 1997. According to him, when he was working as Watchman in the Transport Corporation in Kangeyam Branch, he was residing at Coimbatore. The distance between Kangeyam and Coimbatore is about 60 k.m. and the travelling time is 1.15 hours. According to him, due to fever, he did not attend the night duty on 24.7.1989. However, he sent a telegram to the Kangeyam Branch informing about his illness and requested leave for two days. He had taken treatment at Sriram Nursing Home, Coimbatore and sent a letter dated 24.7.1991 along with the medical certificate advising him to take treatment for two months. Whileso, he was issued with the charge sheet dated 18.8.1989 for his unauthorised absence from 25.7.1989. He has submitted his explanation on 7.9.1989 enclosing all the relevant materials. Not satisfied with the explanation, the Corporation ordered for an enquiry. The Enquiry Officer has submitted his report on 30.1.1990 finding him guilty of the charges. Based on the findings of the Enquiry Officer, by an order dated 27.10.1990, the petitioner was dismissed from service. Thereafter, he took up the matter before the Labour Court. The Labour Court, by award dated 21.12.1994, after finding that the dismissal is not warranted in respect of the charge levelled against the petitioner, directed the management to pay a compensation of Rs.20,000/-. Not satisfied with the said order, the petitioner has filed the writ petition for quashing the order of the Labour Court and for a direction to the Transport Corporation for reinstatement. The learned single Judge, by an order dated 30.03.2004, after accepting the conclusion of the Labour Court, while considering the question of punishment, taking note of the fact that his absence during the relevant dates was due to illness, which was supported by medical certificate accepting the stand taken by the workman, ordered reinstatement with backwages less the amount that has been received by the workman. Questioning the said order, the Transport Corporation has filed the present appeal.

3. Heard the learned counsel for the appellant.

4. The only point for consideration is as to whether the learned single Judge is justified in interfering with the order of the Labour Court with regard to punishment.

5. Inasmuch as the learned single Judge has concluded that the Labour Court has rightly found that the termination is illegal, it is unnecessary for us to go into the factual details as discussed by the Labour Court as well as the learned Judge.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

6. Coming to the question of punishment, it is seen that the Labour Court has awarded compensation only on the basis that if the workman was reinstated, it would affect the administration of the Transport Corporation. As rightly pointed out by the learned single Judge, there is no material before the Labour Court as well as before the learned single judge to show that by allowing him to continue in service or reinstating him, how it will affect the confidence of the Transport Corporation. As stated earlier, it is the definite case of the workman that he was unwell during the leave period. He has also informed the Corporation in advance, followed by production of medical certificate, which undoubtedly supports his claim of illness during the relevant period. Likewise, there is no material before the Labour Court as well as the learned single Judge that continuance of the workman concerned in service would affect the administration of the Transport Corporation. In the absence of any material, we are in agreement with the conclusion arrived at by the learned single Judge. Further, once it is concluded that the termination is illegal, it is but proper to order reinstatement of the petitioner with all benefits. Accordingly, we approve the course adopted by the learned single Judge.

7. In the absence of any material, we do not find any ground for interference. Accordingly, the writ appeal fails and the same is dismissed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The presiding Officer,
Labour Court, Salem.

2. The Managing Director,
Tamil Nadu State Transport
Corporation(Coimbatore) Limited,
Erode.

+ one cc to Mr.L.G.Sahadevan, Advocate Sr.No.13959.

VC (CO)/RSM/28.3.2006

W.A.No.289 of 2006

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/